

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MASSACHUSETTS

WILLIAM M. TYREE
P.O. BOX-100
SOUTH WALPOLE, MA. 02071
PLAINTIFF, Pro se

V.

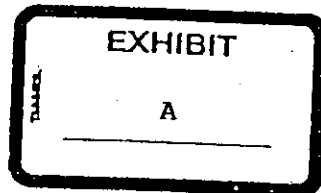
UNITED STATES ARMY
CID AGENT PAUL MASON (Retired)
CID AGENT JOSEPH BURZENSKI (Retired)
DEFENDANTS
U.S. Department of Justice
John J. Moakley Courthouse
1 Courthouse Way, Suite 9200
Boston, Massachusetts 02210
(Main phone: 617-748-3100)
Counsel for Defendants

C.A. 04-11430-RCL

AFFIDAVIT OF THE PLAINTIFF
CONFIRMING NOLLE PROSEQUI
AND DISMISSAL OF CRIMINAL
CHARGES FOR INSUFFICIENT
EVIDENCE THAT BROUGHT ABOUT
ALLEGED FALSE ARREST AND
IMPRISONMENT WITH EXHIBITS
IN SUPPORT.

I, William M. Tyree, on oath state:

1. That, I am the Plaintiff in the above named action.
2. That, I was present in the First District Courthouse of Northern Middlesex County, Ayer, Massachusetts, on May 15, 1979, when Judge James Killiam III, found no probable cause against me on the criminal complaints which charged:
 - (a). Murder, First Degree;
 - (b). Conspiracy To Commit Murder;
 - (c). Accessory Before The Fact Of Murder.
3. That, the attached copy of transcript from May 15, 1979, at EXHIBIT-A, is a genuine true copy of the document that it purports to be. At page 7 of 16 pages, the bottom half of the transcript page confirms that no probable cause was found against me on the three criminal complaints above.
4. That, in April 1987, I did receive the letters from ADA Catherine Sullivan, and ADA Peter Agnes which confirmed that the prosecution dismissed the charges of Conspiracy To Commit Murder, and Accessory Before The Fact Of Murder due to lack of evidence. The letters are attached at EXHIBIT-B. These letters are true genuine copies to the best of my own knowledge.



I, William M. Tyree on oath state that the
copies attached as pages to this exhibit are
true genuine copies of the documents they
purport to represent. Signed under the pains
and penalties of perjury on this date, 7/3/04.

William M. Tyree
William M. Tyree
Pro se
P.O. Box-100
S. Walpole, MA. 02071

(151)

Addendum-1
page 2 of 16 pages

the deed, which barracks are vulnerable to daily inspection, would strain the credulity of even the most gullible. The enlightened suspicion of frame is inescapable to this Court.

The defendant Tyree had two "best friends"; First, Staff Sergeant Menzie, who had nothing but concern for Tyree and his wife, Elaine, to the extent that Staff Sergeant Menzie all but forced Tyree to go through a listing of suspects and circumstances. These Tyree failed to produce. Second, Specialist 4 Earl Michael Peters, a regular visitor at the Tyree apartment, had the confidence of William Tyree and his intimate knowledge of the Tyree home and habits, together with his probable involvement with Tyree in various illegal activities, suggests his involvement in the homicide. This same intimacy tends to explain Tyree's apparently accurate grasp of the events surrounding his wife's death. Peters' obvious guile and Tyree's apparent intellectual deficiency (as deduced from the testimony of most witnesses) lead more believably toward Peters

Addendum-1

~~Page 4 of 16 pages~~

(153)

1
2 and after complete hearing of all the evidence, all
3 parties being represented by Counsel, and with
4 full opportunity to be heard in examination of
5 witnesses, I make the following determinations
6 and orders: would the defendants please stand up.

7 I. Private William Tyree, probable
8 cause found on complaint and process to issue
9 if not already issued;

10 1. Accessory after the fact of
11 murder.

12 2. Conspiracy with Earl Michael
13 Peters to obstruct justice.

14 3. Obstruction of justice.

15 II. Private Eric Y. Aarhus, probable
16 cause found on complaint and process to issue
17 if not already issued;

18 1. Accessory before the fact of
19 murder.

20 2. Murder in the first degree.

21 3. Conspiracy with Earl Michael
22 Peters to murder Elaine Tyree.
23
24

(155)

Addendum-1
page 6 of 16 pages

1
2 defendants of their right to waive indictment and
3 to proceed to trial upon the foregoing complaints.
4 James W. Killam, III, Special Justice, dated
5 May 15, 1979.

6 MR. DEMICHAELIS: As I understand it,
7 if your Honor please, none of those charges that
8 you have made findings upon against Tyree
9 presently exist as far as issuance of complaints
10 or anything of that nature.

11 COURT: No. They will all have to be
12 new complaints.

13 MR. DEMICHAELIS: So, you're finding
14 no probable cause on the present complaints?

15 COURT: That's correct.

16 MR. DEMICHAELIS: And just so that I
17 understand correctly, are there any present charges
18 in existence that your Honor found probable cause
19 on, either against Aarhus or Tyree?

20 COURT: Conspiracy to murder and murder
21 in the first degree.

22 MR. DEMICHAELIS: Only as far as Aarhus
23 is concerned?
24

(157)

Addendum-1
page 8 of 16 pages

your Honor has found probable cause upon is
conspiracy to murder against Aarhus, is that
correct?

COURT: And murder in the first degree.
For what it's worth, not with the idea that he
wielded the knife, but with the idea that he was
a principal and involved in the crime. There
will be a further complaint issued against
Private Aarhus, accessory before the fact to
murder. And, I believe that's the only new one
for Aarhus. Then there will be six complaints
against Earl Michael Peters. The Government's
obligation as far as my order is concerned, it's
only to sign the complaints. The Clerk's
obligation is to issue process. From there on
it will be the determination of the District
Attorney as to what's to be done.

As far as the exhibits are concerned,
will you take custody of the exhibits?

MR. DEMICHELLIS: Yes, I shall.

COURT: Does the Government wish to be
heard in the matter of bail?

(159)

Addendum-1
page 10 of 16 pages

1
2 this respect that right now the defendant Tyree
3 has no roots in the community at all. He has no
4 apartment or home. He has no other family in the
5 community. He has no job, except for the army,
6 which I think has been indicated throughout the
7 trial that he expects to leave the Army. Whether
8 he leaves and waits to be discharged, is a question.
9 I think in view of the fact that there has been
10 that possibility of an escape, it's conceivable
11 that he may not wish to be processed through the
12 Army, and leave forthwith.

13 COURT: I don't see that bail
14 would have much to do with escape.

15 MR. DEMICHAELIS: Well, the fact
16 that he couldn't make the fifty thousand would at
17 least keep him in custody, Your Honor. I would - -

18 COURT: I suspect that the Govern-
19 ment is going to proceed to an indictment on these
20 complaints in any event.

21 MR. DEMICHAELIS: It's conceivable.
22 I would think that that's a distinct possibility,
23 Your Honor. But, in the interi
24

(161)

Addendum-1
page 12 of 16 pages

1
2 COURT: I think we can get a
3 complaint within the next two minutes that will
4 keep him. I've ordered it as part of this decision.
5 Get the accessory after the fact of murder, and I'll
6 hold him.

7 MR. BRADLEY: I think on bail,
8 Judge, the hearing is tended to clear the air a
9 little bit. There's no indication he was going to
10 run. There may have been some indication he was
11 going to go to Germany, but - -

12 COURT: Is Lt. Boisseau here?

13 MR. BRADLEY: But he's been in-
14 volved, as you know, from evidence here and matters
15 before. There were some serious matters he was
16 involved in before, and he never attempted to run.
17 He made no attempt to go anywhere, as a matter of
18 fact. There is no reason to believe he's going to
19 run away now. I have no reason to believe that
20 he's going to run away now, or leave the jurisdiction.
21 I could ask Your Honor to consider bail that he
22 could make, something in the neighborhood of ten
23 thousand dollars, with a thousand cash, alternative
24

(163)

Addendum-1
page 14 of 16 pages

CLERK: William M. Tyree, Jr.,
would you kindly stand please. This complaint,
complaint 978 of 1979, Court finds probable cause,
accessory after the fact of murder. The Court also
commits you on this complaint, and twenty-five
thousand dollar cash or surety. You stand committed
on this complaint of accessory after the fact of
murder.

MR. BRADLEY: Is that twenty-five
thousand cash alternative, Judge?

CLERK: Cash or surety.

MR. BRADLEY: Cash in the amount
of twenty-five hundred?

CLERK: Twenty-five thousand.

COURT: You have the right to dis-
agree with my finding that he should be held on
bail. You have a right to hearing before the Justice
of the Superior Court in the matter of possible
reduction. You may make that election today.

CLERK: I'll have them sign a
petition of review of bail, Your Honor.

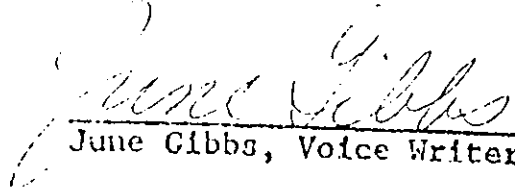
COURT: My written findings are .

(165)

Addendum-1
page 16 of 16 pages

C E R T I F I C A T E

I, June Gibbs, do hereby certify that the foregoing record, pages 3 through 17, is a complete, accurate and true transcription of my voice recorded tapes taken in the aforementioned matter to the best of my skills and ability.


June Gibbs, Voice Writer

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the Certifying Reporter.

JGF Court Reporters
Superior Courthouse
East Cambridge, Massachusetts 02141

1 beat and so forth his wife. I think that what you have
2 done now is help the defendant--I'm sorry--help the
3 Commonwealth to establish something that they are
4 incapable to proving during a trial. The defendant is
5 deprived of a trial, fair trial by it.

6 THE COURT. I think it is not. Your rights, of
7 course, are saved. I do not propose to delay the trial
8 at this time.

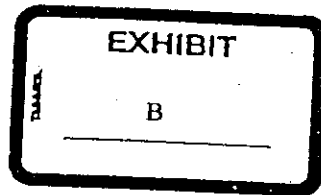
9 MR. BRADLEY. Your Honor, note my objection.

10 THE COURT. Of course your objection is noted.

11 MR. McCORMICK. Your Honor, I have got a Bill of
12 Particulars that I had drafted up this morning and I
13 didn't have a chance to get it down before the case
14 started. I would like to have it filed now.

15 THE COURT. Do you object to it being filed?

16 MR. BRADLEY. My objection, Judge, once again,
17 I say, if I may say so, I didn't undertake this case.
18 The district attorney's office has been on the
19 investigation of this case since the day the girl was
20 killed. They knew what they had on the defendant Aarhus,
21 they knew what they had on the defendant Tyree. That
22 is the proper way to prepare an investigative case.
23 Now, in this case they mess it up. They have for a year
24 been trying to get the Court and everybody else in sight
25 to make Aarhus come into this court and testify. They



I, William M. Tyree on oath state that the
copies attached as pages to this exhibit are
true genuine copies of the documents they
purport to represent. Signed under the pains
and penalties of perjury on this date, 7/3/04.

William M. Tyree
William M. Tyree

Pro se

P.O. Box-100

S. Walpole, MA. 02071



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE
DISTRICT ATTORNEY FOR MIDDLESEX COUNTY
CAMBRIDGE 02141

JOHN J. DRONEY
DISTRICT ATTORNEY

January 5, 1981

JAN - 8 1981

Hugh M. Samson, Esq.
Massachusetts Defenders Committee
120 Boylston Street
Boston, MA 02116

RE: William M. Tyree, Jr.

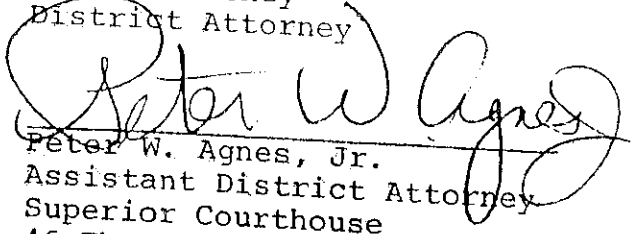
Dear Attorney Samson:

Due to insufficient evidence the charges of conspiracy to commit murder, and accessory before the fact of murder were dismissed against Mr. Tyree. Nolle prosequi was entered. Enclosed are the relevant documents.

Sincerely yours,

John J. Droney
District Attorney

By:


Peter W. Agnes, Jr.
Assistant District Attorney
Superior Courthouse
46 Thorndike Street
Cambridge, MA 02141

PWA/dml
Enclosure:

11 FEB 15 1979

1979

SU 62-0 PAGE THREE UNCLAS

ON JANUARY 30, 1979,

b7C [REDACTED] ELAINE A. TYREE, NEE HEBBS, 22 YEAR OLD FEMALE, U. S. ARMY PFC, ASSIGNED FORT DEVENS, MASS., MURDERED IN AYRE, MASS. VICTIM REPORTEDLY STABBED SEVEN TIMES, THROAT SLIT. ELAINE,

b7C [REDACTED] U.S. ARMY SPECIALIST E-4, WILLIAM M. TYREE, JR., [REDACTED] LAST FOUR DIGITS SSAN

[REDACTED] ASSIGNED [REDACTED] FORTYFIRST MILITARY INTELLIGENCE DETACHMENT, FORT DEVENS, MASS. AS OF AFTERNOON FEBRUARY 6, 1979, WILLIAM M. TYREE, JR. PATIENT WALTER REED MILITARY HOSPITAL, WASHINGTON, D.C., FOR REPORTED "MENTAL BREAKDOWN" AFTER WIFE'S MURDER.

WILLIAM TYREE JR. REPORTEDLY PREVIOUSLY CHARGED IN MID 1978 BY CRIMINAL INVESTIGATIVE DIVISION (CID), FORT DEVENS, WITH THEFT AND SALE OF GOVERNMENT PROPERTY SUCH AS STAR CLUSTERS, GRENADES, WHITE SNOW SUITS, ET AL. TYREE FAMILY REPORTEDLY WERE FURNISHED STATEMENTS OF WITNESSES CID INVESTIGATION REGARDING SAID THEFT OF GOVERNMENT PROPERTY ALLEGATIONS. SAID CHARGES "DROPPED" BY CID AFTER WIFE'S MURDER. [REDACTED]

b7C

SU 62-2 PAGZ FIVE UNCLAS

b7C
b7D

[REDACTED]

ABOVE INFORMATION FURNISHED FOR POSSIBLE DISSEMINATION
PERTINENT LAW ENFORCEMENT AND MILITARY AGENCIES FOR FOLLOWING
REASONS:

b7C
b7D

[REDACTED]